

Docket 61366  
Serial No. 10/735,389

## PATENT APPLICATION

**REMARKS**

This is in full and timely response to the Office Action on the merits dated October 3, 2006. Reconsideration and reexamination are respectfully requested in view of the foregoing  
5 amendments and the following remarks.

By the foregoing amendment, claim 5 has been canceled and claims 1 and 10 have been amended. Therefore, claims 1-4 and 6-20 remain in this application with claims 1, 13, and 19 being independent.

10 **IN THE CLAIMS:**

**35 U.S.C. § 112 Rejections**

Claim 10 stands rejected under 35 U.S.C. 112, second paragraph in that the term "control circuit" lacks sufficient antecedent basis. Claim 10 has been amended to properly  
15 depend from claim 9 which includes the needed antecedent basis. Accordingly, this rejection is overcome.

**35 U.S.C. § 103 Rejections:**

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.  
20 patent publication 2002/0064276 to Winegar. More particularly, the examiner has admitted that:

"Winegar does not disclose a groove formed in said side; and at least one light source positioned in the groove on the boom and arranged such that the light

Docket 61366  
Serial No. 10/735,389

## PATENT APPLICATION

source is completely shield from the user's eyes to provide an in-use indicator for the headset that does not bother the user."

However, the examiner further stated:

5        "However, Winegar also discloses a groove (32) with a light indicator on the headband area and does not restrict to any specific areas (paragraph 0032)."

The first difficulty with the examiner's analysis is that the "groove (32)" cited by the examiner is not actually a groove at all; rather, the element denoted in Winegar as "32" is an  
10    LED strip (Winegar, paragraph 0026). A second and related difficulty is that a "groove" is not recited, described, implied, or otherwise contemplated by Winegar. Further, the concept of positioning a light source within a groove or recess in order to guard a headset wearer's eyes from the light source is not taught or suggested in any of the references cited by the examiner, whether considered singly or in combination. The feature of positioning a light source within  
15    a groove or recess in order to protect a user's eyes therefrom is only disclosed in the present application. To read this unique feature into Winegar or any other reference would be to engage in improper hindsight reasoning.

In an informal telephone interview with the examiner, the examiner acknowledged that Winegar does not disclose a light source(s) positioned in a groove defined along an outward  
20    facing side of a headset boom, such that the lights are completely shielded from a user's eyes but noted that claim 1 of the present application does not specifically claim this arrangement. Therefore, without admitting the propriety of the present rejection, claim 1 has been amended to more particularly claim said arrangement and claim 5 has been canceled. Therefore, claim

Docket 61366  
Serial No. 10/735,389

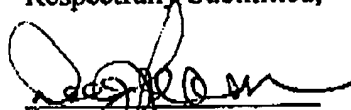
## PATENT APPLICATION

1 should now be in condition for allowance along with claims 2-4 and 6-12 which depend therefrom.

It should be noted and fully appreciated, however, that claims 13 and 19 as originally filed include the recitation that a plurality of lights are positioned in a groove on the second  
5 side (facing away from a user's head) and arranged so as to be "completely shielded from the user's eyes" when the headset is supported on the user's head. In view of the applicant's clear analysis above of Winegar, the applicant requests reconsideration of the rejection of claims 13 and 19. As Winegar clearly does not disclose, teach, or suggest the structure recited in claims 13 and 19 and as these claims have not been amended, Winegar should be removed from  
10 consideration and no additional searching need be made. Accordingly, claims 13 and 19 and claims 14-18 and 20 which depend therefrom, respectively, should be in condition for allowance and such is respectfully requested.

This application should now be in condition for allowance and such is respectfully requested. If the examiner has any suggestions that would place this application in even  
15 better condition for allowance, he is invited to contact the applicant's representative at the telephone number listed below.

Respectfully Submitted,



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